

# **EXHIBIT 1**

1                   COMMONWEALTH OF MASSACHUSETTS  
2                   COMMISSION AGAINST DISCRIMINATION

3                   JEANNE E. DEGEN

)

4                   VS.

)

) C.A. 02BEM01435

5                   GOLDWELL OF NEW ENGLAND, INC.)

**ORIGINAL**

6                   DEPOSITION OF JEANNE E. DEGEN, taken at the  
7                   request of the Respondent pursuant to Rule 30  
8                   of the Massachusetts Rules of Civil Procedure  
9                   before Karen R. Weldon, a Notary Public and  
10                  Registered Merit Reporter in and for the  
11                  Commonwealth of Massachusetts, on July 31, 2003,  
12                  commencing at 11:30 A.M. at the offices of  
13                  Rodgers, Powers & Schwartz, 18 Tremont Street,  
14                  Boston, Massachusetts.

15

16                  A P P E A R A N C E S:

17                  FOR THE PLAINTIFF:

18                  RODGERS, POWERS & SCHWARTZ

19                  18 Tremont Street

20                  Boston, Massachusetts 02108

21                  BY: KEVIN G. POWERS, ESQ.

22                  FOR THE DEFENDANT:

23                  BOWDITCH & DEWEY

24                  311 Main Street

25                  Worcester, Massachusetts 01608

26                  BY: JONATHAN R. SIGEL, ESQ.

27                  Also Present: Mary M. Garneau, Goldwell

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28                  BAY STATE REPORTING AGENCY  
29                  76 MILL STREET (At Park Avenue)  
30                  WORCESTER, MASSACHUSETTS 01603  
31                  (508) 753-4121

1           Q.       And how do you come to that  
2 understanding?

3           A.       Susan Pugh kept me abreast of certain  
4 incidents as, like I just said, I was in contact  
5 with David Halgreen, vice president of Goldwell.  
6 His top priority, right off he was hired --

7                    MR. POWERS: Slow down.

8           A.       Sorry. His top priority was to hire  
9 an Artec brand manager to fill my position.

10                  Vicki Bruton, regional sales manager  
11 for Artec, stated January 1st of 2002 they began  
12 looking to fill the position of Artec brand  
13 manager.

14                  Lisa Kelly, director of education for  
15 Shakour, also stated the fact that they  
16 immediately were looking for replacement.

17           Q.       And did you come to find out that a  
18 replacement was hired?

19           A.       I don't know.

20           Q.       Did any of these individuals that you  
21 have mentioned, Ms. Pugh, Ms. Kelly, Mr.  
22 Hallgren or Ms. Bruton, ever inform you that an  
23 individual was or was not hired for the Artec  
24 brand manager position?

1           A.       Yes. David Halgreen in June of 2002  
2         hired an Artec brand manager, he told me.

3           Q.       Who was that, the person he hired?

4           A.       I don't recall her name.

5           Q.       Were you told her name at the time?

6           A.       I may have been.

7           Q.       If I said the name Ellen Burns, does  
8         that ring a bell?

9           A.       No.

10          Q.       In any event, I'm sorry. Go on.

11          A.       In any event, that is what he told  
12         me, that he did indeed hire a brand manager in  
13         June of 2000 that lasted for two weeks.

14          Q.       And did he tell you that person was  
15         to be solely an Artec brand manager?

16          A.       We didn't discuss that.

17          Q.       So you're saying he used the word  
18         brand manager. You don't know whether it was  
19         Artec or Artec and any other brands or what?

20          A.       When I questioned David Hallgren  
21         about what position he was trying to fill, it  
22         was a brand manager for Artec, the person that  
23         he ended up hiring would, how he put it, they  
24         would see if she would work into that position

1 diary?

2 A. That probably would not constitute  
3 part of my diary. I just was jotting down some  
4 things of my own.

5 Q. Okay. So I would ask you, again,  
6 just to repeat the request, that you produce any  
7 documents concerning your conversations with Mr.  
8 Hallgren, any notes that you have taken, that  
9 you have just referred to, if you could also  
10 produce through your attorney, copies of those  
11 to us.

12 A. Yes.

13 Q. Thank you. So during that  
14 conversation with Mr. Hallgren, did you call him  
15 or did he call you?

16 A. I called him.

17 Q. Why did you call him?

18 A. I wanted to ask him who he had hired  
19 as an Artec brand manager.

20 Q. And who had informed you that he had  
21 hired anyone as an Artec brand manager?

22 A. Susan Pugh.

23 Q. And did Susan Pugh work with Mr.  
24 Hallgren?

1 A. \$30 approximately.

2 Q. Have you filed any legal claims  
3 against any other employers besides Goldwell?

4 A. No.

5 Q. And by that I mean ever?

6 A. No.

7 Q. Now, you became employed at Goldwell  
8 in August of 1998; is that correct?

9 A. Correct.

10 Q. And you were at all times, during  
11 your employment at Goldwell, you were the Artec  
12 brand manager?

13 A. Yes.

14 Q. Okay. Can you with as much detail as  
15 possible describe the duties of the position you  
16 held at Goldwell?

17 A. It changed April 2000. So shall I  
18 give you the first part?

19 Q. Absolutely. Go chronologically from  
20 the beginning of your employment, please.

21 A. August 31, 1998 until April 1st of  
22 2000, I shared a region with a counterpart  
23 Claire Parkhurst. She had the southern region.  
24 I had the northern region.

1           Q.     So she was the Artec brand manager  
2     for the southern region and you were the Artec  
3     brand manager for the northern region?

4           A.     Yes.

5           Q.     Okay. What did being the Artec brand  
6     manager entail in general?

7           A.     I would basically assist the  
8     salespeople in building Artec business in  
9     detailing with them for the day, which means  
10    riding in their car all day going to salons and  
11    trying to sell Artec into the salons.

12          Q.     What was Artec or what is Artec?

13          A.     Artec is a manufacturer. No longer  
14    owned by Leann Hersch, but at that time.

15          Q.     Who is it owned by now, do you know?

16          A.     Loreal.

17          Q.     I'm sorry. Go ahead.

18          A.     It's a product line.

19          Q.     What kind of products?

20          A.     Wet line, which means shampoos,  
21    styling, finish aids, color line.

22          Q.     So just wet products?

23          A.     Well, the color line is a chemical.

24          Q.     Okay.

1 had, the company was concerned about liability  
2 in having you do something that would violate  
3 those restrictions?

4 Isn't that what she explained to you?

5 A. No.

6 Q. So that's not true. That's false?

7 A. I never had a conversation with Mary  
8 about work restrictions. So that is false.

9 Q. You never had a conversation with Ms.  
10 Garneau about work restrictions?

11 A. Let's go back there. I feel you're  
12 putting words in my mouth. Okay. Mary told  
13 Renee I was restricted to an hour and a quarter  
14 of driving. I don't know where she got that  
15 information from.

16 Q. Not from you?

17 A. It was an hour and a quarter was a  
18 guideline that I was comfortable with, but I did  
19 my job.

20 Q. Well, whether it was a guideline,  
21 restriction, whatever --

22 A. It was not a restriction.

23 Q. Call it a guideline. Where did that  
24 come from?

1 your testimony was.

2 A. I don't remember saying that. I  
3 remember you just saying that, but I don't  
4 remember saying that.

5 Q. Okay. Well, did you ever have any  
6 conversation with Ms. Garneau about medical  
7 restrictions?

8 A. Not that I can recall.

9 Q. Okay. So you're saying you did have  
10 a conversation with her about medical  
11 guidelines?

12 A. No.

13 Q. No?

14 A. No.

15 Q. Okay. What guidelines were you  
16 referring to that you informed her of with  
17 respect to the driving?

18 A. The comfort zone was an hour and a  
19 half to be in the car. That was a comfort zone  
20 for me. That did not come as a restriction.

21 Q. In other words, it didn't come from  
22 any physician you had?

23 A. Right. I'm doing my job. I just am  
24 more comfortable when it's less than an hour and

1 a half.

2 MR. POWERS: I'm going to take a  
3 break.

4 MR. SIGEL: Let's take a break now.

5 (Recess taken.)

6 MR. SIGEL: Back on the record.

7 (The reporter read the record back as  
8 requested.)

9 Q. Okay. So your testimony is, as far  
10 as this driving you referred to as a guideline,  
11 as far as how much time you were to be in the  
12 car, your testimony is, I just heard it, is that  
13 it didn't come from a physician, but rather that  
14 is what your comfort level was, correct?

15 A. The conversation --

16 MR. POWERS: Objection. Compound  
17 question. Go ahead.

18 A. The conversation I had with Mary was  
19 she asked me what, how comfortable, what time  
20 limit was I comfortable doing, and I said  
21 basically an hour and a half is comfortable.  
22 But I do my job.

23 Q. Okay. So an hour and a half per day  
24 in the car is what you meant?

1 A. An hour and a half at one time.

2 Q. Okay. At one time. Driving in the  
3 car?

4 A. Correct.

5 Q. Did that mean you operating the  
6 vehicle or did it also mean you being a  
7 passenger in a vehicle?

8 A. Operating.

9 Q. And this was, as you testified, this  
10 was not any kind of medical restriction, but  
11 rather a guideline that you followed?

12 A. At that point --

13 Q. Correct.

14 A. That's all the conversation was.

15 Q. When you say that's what you were  
16 comfortable with, what do you mean?

17 What did you mean at the time when  
18 you were saying that to Ms. Garneau?

19 A. Well, Mary asked me what basically  
20 was my daily routine, and I said on the average  
21 it's an hour and a half, on an average. It  
22 could be two hours and so on.

23 Q. Okay. So what I'm trying to get at,  
24 when you say comfort, do you mean physical

1           Q.        Okay. Tell me about that. How did  
2       that come back where you informed her of that?

3           A.        When I spoke to her about therapy and  
4       should I rearrange my schedule, my therapy, she  
5       more or less said that she would talk to John  
6       and Sheryl because she was unaware of me being  
7       in therapy.

8           Q.        She was not unaware of your '99 car  
9       accident though, right, or at least she didn't  
10      tell you that she was unaware of that, right?

11         A.        No, not that I know of.

12         Q.        Okay.

13           MR. POWERS: What's your question?  
14       She answered that. The last question was, she  
15       wasn't unaware of your car accident? The answer  
16       was no.

17         Q.        I understand. I'm sorry for  
18       interrupting, but the question is: You said you  
19       had a conversation with her where you informed  
20       her of your driving guidelines.

21           You said she was unaware of your  
22       therapy, right?

23         A.        Right. Yes.

24         Q.        Okay. And at some point you informed

1       her of these guidelines, right?

2           A.     She asked me if there were any work  
3       restrictions.

4           Q.     Okay.

5           A.     And I said no. She asked me what I  
6       was driving at this point in the car. I told  
7       her one and a half hours to two hours a day from  
8       one destination to the other.

9                  One and a half hours was at a comfort  
10      zone, was a comfort zone, but I was able to do  
11      my job.

12           Q.     So you told her you didn't have  
13      medical restrictions?

14           A.     No. I didn't have medical  
15      restrictions.

16           Q.     Did you tell her that at that time?

17           A.     I told her there were no  
18      restrictions.

19           Q.     But you had a comfort zone?

20           A.     Well, I answered her question when  
21      she asked me how many hours was I driving and  
22      was that doable. And I said one and a half  
23      hours is comfortable, but I'm able to do  
24      whatever it takes to do my job.

1           Q.        Okay. Did you tell her what you  
2 meant by comfortable?

3           A.        No.

4           Q.        You didn't relate it to your injury  
5 at all?

6           A.        No.

7           Q.        Did she ask?

8           A.        I don't remember.

9           Q.        When you said comfortable to her, you  
10 meant comfortable physically, right, not  
11 comfortable just what you preferred?

12          A.        Physically.

13          Q.        And what else did she say to you at  
14 that time, do you recall?

15          A.        That's all I recall.

16          Q.        Did she say anything to the effect  
17 that she didn't recall seeing anything in your  
18 file about any kind of driving guidelines or  
19 restrictions?

20          A.        That was brought up in our meeting.

21          Q.        But not during the conversation that  
22 you're talking about now?

23          A.        Not to my recollection.

24          Q.        Okay. So after that you spoke to Ms.

1           Q.     Your opinion that you were terminated  
2 because you were a handicapped individual to the  
3 company as you said.

4           A.     You're asking me my opinion?

5           Q.     I'm asking you what facts you base  
6 that opinion on?

7           A.     What facts I base that opinion on?

8           Q.     Correct.

9           A.     Until the word therapy was brought up  
10 in October, I was a very valuable employee and  
11 was consistently told so.

12                 The minute the word therapy came into  
13 the conversation, two months later, I was gone.

14           Q.     Anything else?

15           A.     That's --

16           Q.     That's it?

17           A.     That's pretty much about it.

18           Q.     Your accident was in June of 1999,  
19 correct?

20           A.     Correct.

21           Q.     And that was during work?

22           A.     Yes.

23           Q.     The day after the accident, did you  
24 return to full duty?

1 A. I believe I did. I believe I did.

2 Q. I'm going to show you a document and  
3 ask you to just look through it and tell me if  
4 you recognize it?

5 MR. SIGEL: I would like to mark it  
6 as the next exhibit.

7 (Deposition Exhibit No. 3 Marked).

8 A. Okay. Yes. Are you asking me --  
9 What are you asking me?

10 Q. I'm asking if you recognize the  
11 document?

12 A. Yes.

13 Q. What do you recognize it to be?

14 A. A letter sent from Kevin Powers to  
15 me.

16 Q. Isn't it the complaint that you filed  
17 with the Mass. Commission Against  
18 Discrimination?

19 A. Yes.

20 Q. And we have marked that as Exhibit  
21 No. 3.

22 A. Okay.

23 Q. I would like to direct your attention  
24 to the second page of that exhibit --

1 A. Uh-huh.

2 Q. What was the ultimate result of your  
3 worker's compensation case?

4 A. Can you rephrase that?

5 Q. Was there ultimately a decision with  
6 respect to whether you should receive benefits?

7 A. They approximately paid -- What was  
8 your question?

9 Q. I'm trying to understand whether  
10 there was, was there any kind of dispute in this  
11 worker's compensation case?

12 A. Yes.

13 Q. What was the nature of that dispute?

14 A. In October I received a letter,  
15 October of 2001, I received a letter, October  
16 4th, I received a letter from Ronnie Greenaw  
17 stating the fact that CNA would stop payment as  
18 of August, okay, of 2001.

19 She had stated she had been in  
20 contact with Mary Garneau and that was the  
21 decision that was made by the company, by CNA.

22 Q. CNA. Okay.

23 A. I then appealed and won. They  
24 appealed.

1 Q. Who did you appeal to?

2 A. I appealed to the New Hampshire Board  
3 of Unemployment.

4 Q. Worker's comp?

5 A. Worker's comp.

6 Q. Okay.

7 A. And won. And they appealed back and  
8 I was no longer, they no longer had to pay for  
9 present or future bills.

10 Q. Was there a hearing?

11 A. Yes.

12 Q. Did you testify at that hearing?

13 A. Yes.

14 Q. And what was the decision of the  
15 board?

16 A. Which one?

17 Q. Of that appeal.

18 MR. POWERS: Objection.

19 Q. After the hearing that you testified  
20 at, was there a decision rendered?

21 A. Which one are you talking about?

22 Q. How many times did you testify in the  
23 case?

24 A. Twice.

1 Mid October when Mary Garneau, Sheryl  
2 Holladay, Lori from resource, human resource and  
3 Renee Shakour were in the meeting, mid October,  
4 20th, 22nd, maybe, they basically stated the  
5 fact that I was going to work every Friday.

6                   They were not going to accommodate  
7 my, they were not going to give me the  
8 accommodations that I had asked for in the prior  
9 meeting, two weeks prior with John Foundas, Mary  
10 Garneau and Sheryl Holladay.

11 Q. Okay. So it was then, October 22nd.

That's when it became a medical restriction?

13 MR. POWERS: Objection.

14 Q. Do you want me to ask the question  
15 again?

16 A. Go ahead

17 MR. SIGEL: Can we go back to my last  
18 question.

19 MR. POWERS: October 22nd, is that  
20 when it became operational?

21 MR. SIGEL: No. The previous one,  
22

23 (The reporter read the record back as  
24 requested.)

1           A.     Yes. To stay in my home. I mean, I  
2 didn't specifically say that it's supposed to be  
3 that way, but it wasn't even an issue.

4           I mean, Renee wrote it down, you will  
5 still resume Fridays in your home. So there was  
6 no problem.

7           Q.     Okay. What I'm saying, at that time  
8 you're saying when you renegotiated in April  
9 2000, resume Fridays in your home, not to  
10 accommodate your therapy, but rather so you  
11 could do your paperwork at home in your home  
12 office on Fridays as you had been doing, right?

13          A.     To stay at home.

14          Q.     In paragraph 6 of the complaint,  
15 which is Exhibit 3, what medical documentation  
16 are you referring to?

17          A.     When I was in the office, the first  
18 week of October with Mary, John and Sheryl, they  
19 said if I didn't get a doctor's excuse stating  
20 the fact that I could resume work, they were  
21 going to not allow me to work.

22               I got a letter sent to them stating  
23 the fact she can resume her regular workday,  
24 four days on the road, one day in her office,